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SUPREME COURT, U. S.

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1963

No. 12

ROBERT MACK BELL, ET AL., PETITIONERS,

vs.

MARYLAND.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS
OF THE STATE OF MARYLAND

PETITION FOR CERTIORARI FILED JUNE 8, 1963
CERTIORARI GRANTED JUNE 10, 1963

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1963

No. 12

ROBERT MACK BELL, ET AL., PETITIONERS,

vs.

MARYLAND.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF MARYLAND

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IN THE COURT OF APPEALS OF MARYLAND

September Term, 1961

No. 91

ROBERT MACK BELL, LOVELLEN P. BROWN, ARIMENTHA D. BULLOCK, ROSETTA GAINEY, ANNETTE GREEN, ROBERT M. JOHNSON, RICHARD McKOY, ALICETEEN E. MANGUM, JOHN R. QUARLES, SR., MURIEL B. QUARLES, LAWRENCE M. PARKER, and BARBARA F. WHITTAKER, Appellants,

v.

STATE OF MARYLAND, Appellee.

Appeals from the Criminal Court of Baltimore
(Joseph R. Byrnes, Judge)

Appendix of Appellants' Brief—Filed September 25, 1961

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[fol. 3]

IN THE CRIMINAL COURT OF BALTIMORE, MARYLAND

PART III

DOCKET ENTRIES AND JUDGMENT

Docket 1960.
May Term.
Number 2523.

Charge: Trespassing, etc.

Prosecuting Witness—Gilbert C. Hooper, Sr.

Appearance of R. B. Watts, T. R. Dearing and J. J. Mitchell, Attorneys, as to each, filed.

June 20, 1960—Recognizance as to each filed.

June 24, 1960—Presentment as to each filed — e.d. — Capias Issued—Cepi, Bail as to each.

June 27, 1960—Recognizance taken as to each: Released on own Recognizance—$100.00.

July 12, 1960—Indictment filed.

November 10, 1960—Copy of Indictment Served—Receipt filed.

November 10, 1960—Arraigned and pleads as to each, Not Guilty.

November 10, 1960—Submits under plea as to each, Not Guilty and Issue before Byrnes, Judge.

November 10, 1960—Not concluded and resumed on 24 March, 1961.

March 24, 1961—Verdict: As to each, Guilty 1st Count, Not Guilty 2nd Count.

March 24, 1961—Judgment: As to each, Fined $10.00 and Costs. Fine suspended and to pay Court Costs.

March 24, 1961—As to Bell, et al., Costs $89.00 paid Sheriff.

[fol. 4] March 24, 1961—Memorandum Opinion filed. Byrnes, Judge.

April 12, 1961—As to each: An Appeal to the Court of Appeals of Maryland, filed.

April 28, 1961—Order of Court that the time for filing the Transcript of Testimony be extended to and including 26 May, 1961, filed. Byrnes, Judge.

May 18, 1961—Transcript of Testimony filed. Transcript No. 1800.

May 22, 1961—Appearance of Robert B. Watts, Esq., stricken out.

IN THE CRIMINAL COURT OF BALTIMORE, MARYLAND

PART III

INDICTMENT—Filed July 12, 1960

State of Maryland, City of Baltimore, to wit:

The Jurors of the State of Maryland, for the body of the City of Baltimore do on their oath present that Robert Mack Bell, Lovellen P. Brown, Arimenth A. D. Bullock, Rosetta Gainey, Annette Green, Robert M. Johnson, Richard McKoy, Aliceteen E. Mangum, John R. Quarles, the elder, Muriel B. Quarles, Lawrence M. Parker, and Barbara F. Whittaker, that on the seventeenth day of June, in the year of our Lord nineteen hundred and sixty, at the City aforesaid, unlawfully did enter upon and cross over the land, premises and private property of a certain corporation in this State, to wit, Hooper Food Co., Inc., a corporation, after having been duly notified by Albert Warfel, who was then and there the servant and agent for Hooper Food Co., Inc., a corporation, not to do so; contrary to the form of the Act of Assembly in such case made and provided, and against the peace, government and dignity of the State.

* * * * * * *

IN THE CRIMINAL COURT OF BALTIMORE, MARYLAND

PART III

DEFENDANTS' MOTION FOR DIRECTED VERDICT

Now come Defendants, by their Attorneys, Brown, Allen and Watts, Dearing and Toadvine, and Juanita Jackson Mitchell, and move the Court for a directed verdict in their favor and assign therefor the following reasons:

[fol. 5] 1. The restaurants which are the complaining witnesses in above styled cases are privately-owned places of public accommodation;

2. Defendants were business invitees, peacefully upon the premises of these public accommodations, and are not guilty of trespass;

3. Application of Article 27, Section 577 of the Annotated Code of Maryland 1957 Edition to these Defendants abridges the rights of the Defendants to freedom of speech and of association in violation of the State of Maryland and the Fourteenth Amendment of the Constitution of the United States;

4. Application of Article 27, Section 577 of the Annotated Code of Maryland 1957 Edition to these Defendants abridges the rights of the Defendants to freedom of assembly in contravention of the Fourteenth Amendment to the Constitution of the United States;

5. Defendants were upon the properties in question under a claim of right and their arrest and conviction would be in violation of the due process clause of the Fourteenth Amendment of the Constitution of the United States;

6. Conviction of the Defendants under the facts and circumstances of this case would deny to them due process contrary to the Fourteenth Amendment of the Constitution of the United States, in that the trespass statute as here applied authorizes their ejection, arrest, prosecution and conviction for being in a public place, solely on account of their race and color in violation of the liberty guaranteed by the Fourteenth Amendment of the Constitution of the United States;

7. Application of the statute of these Defendants violates their rights to equal protection of the law clause of the Fourteenth Amendment of the Constitution of the United States by singling them out for ejectment and arrest solely because of their race and color;

[fol. 6] 8. The statute as applied to these Defendants denied to these Defendants due process of law because it enforced a private rule or regulation of the restaurant owners requiring racial segregation and discrimination in the restaurants in violation of the Fourteenth Amendment of the Constitution of the United States;

9. The Trespass Statute, as applied to these Defendants, denied to them due process and the equal protection of the laws guaranteed by the Fourteenth Amendment to the Constitution of the United States, in that it authorizes or requires the convictions of Defendants of a crime for failing or refusing to obey an order of a private person based solely upon the race or color of the Defendants;

10. Defendants were denied equal protection of the laws guaranteed to them by the Fourteenth Amendment to the Constitution of the United States when, after having been invited into the facilities in question, as members of the general public, they were ordered out and discriminated against by the restaurant owners on account of their race and color, and when the State of Maryland enforced such discrimination by the arrest and prosecution of these Defendants;

11. Application of the Trespass Statute under the facts and circumstances of this case violates the common law and statutory rights of these Defendants not to be excluded from the common market.

Wherefore, your Defendants pray that the Court direct a verdict in their favor.

Brown, Allen and Watts
Dearing and Toadvine
Juanita Jackson Mitchell

IN THE CRIMINAL COURT OF BALTIMORE, MARYLAND

PART III

MEMORANDUM OPINION—Filed March 24, 1961

BYRNES, *J.*

On July 12, 1960 the above named defendants, students attending local schools, were indicted by the Baltimore [fol. 7] City Grand Jury for trespassing on the premises of Hooper's Restaurant at the southwest corner of Fayette and Charles Streets in Baltimore City. The first count of the indictment charges that the defendants

> " . . . on the seventeenth day of June, in the year of our Lord nineteen hundred and sixty, at the City aforesaid, unlawfully did enter upon and cross over the land, premises and private property of a certain corporation in this State, to wit, Hooper Food Co., Inc., a corporation, after having been duly notified by Albert Warfel, who was then and there the servant and agent for Hooper [sic] Food Co., Inc., a corporation, not to do so; contrary to the form of the Act of Assembly in such case made and provided, and against the peace, government and dignity of the State."

The second count charges that the defendants

> " . . . unlawfully did enter and trespass on certain property of Hooper Food Co., Inc., a corporation which said property was then and there posted against trespassers [sic] in a conspicuous manner; contrary to the form of the Act of Assembly in such case made and provided, and against the peace, government and dignity of the State."

Testimony at the trial disclosed that on June 17, 1960, the defendants entered the restaurant while it was open for business and requested the hostess, Ella Mae Dunlap, to assign them seats at tables for the purpose of being served. She informed them that it was not the policy of the restaurant to serve Negroes, and that she was sorry but she could not seat or serve any of the defendants. She

explained to them that she was following the instructions of the owner of the restaurant.

Despite this refusal, defendants persisted in their demands and, brushing by the hostess, took seats at various tables on the main floor and at the counter in the basement. Not being served, which they apparently anticipated, some of the defendants began to read their school books.

[fol. 8] The trespass statute, Article 27, section 577 of the Maryland Code, 1957 Ed. was read to the defendants and they were told by the manager, Albert R. Warfel, that they were trespassers, and they were then requested to leave. Upon their refusal to do so, police were summoned. Warfel was advised by the police that in order to have defendants ejected by the Baltimore City Police Department it would be necessary for him to obtain warrants for their arrest for trespassing. Warrants were obtained and the arrests followed. Defendants waived a hearing before the Magistrate at the Central Police Station and the case was referred to the Grand Jury.

Defendants contend that their ejection from the restaurant, and subsequent arrest were violative of the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States. The position of the State and the Restaurant Association of Maryland, appearing as Amicus Curiae, is that these clauses of the Fourteenth Amendment do not prohibit discriminatory action by private individuals, such as the proprietor of the restaurant here, nor do they inhibit state action in the form of arrest and conviction for trespass of persons who defy the proprietor's request to leave his property regardless of his reason for doing so. No cases supporting defendants' contention were cited to or found by this Court; on the other hand the State's position is firmly rooted in authority.

At the trial of this case, defendants' counsel repeated arguments made before the Supreme Court of the United States in the highly-publicized case of *Boynton* v. *Virginia*, 364 U.S. 454 (1960) and requested this Court to withhold its decision pending the outcome of that case. Since then the *Boynton* case has been decided, but nothing in the

Court's opinion gives solace to defendants. While it is true that Supreme Court reversed the Virginia Court's conviction of Boynton, an alleged trespasser in a privately owned restaurant, the Court avoided the Constitutional questions there presented (the same ones advanced here) and held that the restaurant at an interstate bus terminal, [fol. 9] although privately owned, was an "integral part of the bus carriers transportation service for interstate passengers" and any racial discrimination in the restaurant violated provisions of the Interstate Commerce Act barring discriminations of all kinds.

It is significant, this Court believes, that in *Boynton, supra*, the Court was careful to point out that "We are not holding that every time a bus stops at a wholly independent roadside restaurant the Interstate Commerce Act requires that restaurant service be supplied in harmony with the provisions of that Act."

Two recent decisions clearly in point are determinative of the principle that in the absence of appropriate legislation forbidding racial discrimination the operators of privately owned restaurants, even though generally open to the public, may discriminate against persons of another color or race, however unfair or unjust such policy may be deemed to be.

In a per curiam opinion the United States Court of Appeals for the Fourth Circuit, *Slack* v. *White Tower*, 284 F. 2d 746 (1960), affirmed Judge Roszel Thomsen's decision holding, after an excellent summation of the applicable law, that a restaurant owner in refusing service to a Negro, violated no law nor did such refusal deprive the Petitioner of any constitutional guarantees, *Slack* v. *White Tower*, 181 F. Supp. 124 (1960).

In the most recent case dealing with efforts of Negroes to force the owners of business premises to open their establishments to all comers through so-called "sit-in" tactics, our Court of Appeals in *Drews* v. *State*, —— Md. ——, 167 A. 2d 341 (1961) affirmed Judge W. Albert Menchine's conviction of four persons charged with disorderly conduct for refusing to leave Gwynn Oak Amusement Park in Baltimore County after being ordered to do so. Speaking for

the Court, Judge Hammond pointed out that the duty imposed by the early common law to serve the public without discrimination was later confirmed to exceptional callings where an urgent public need required its continuance, [fol. 10] such as innkeepers and common carriers. Continuing Judge Hammond stated that

> "• • • Operators of most enterprises including places of amusement, did not and do not have any such common law obligation, and in the absence of a statute forbidding discrimination, can pick and choose their patrons for any reason they decide upon, including the color of their skin."

For the reasons stated this Court must find each defendant guilty on the first count of the indictment, and not guilty on the second count.

Each defendant is fined $10.00 and cost, the fine is suspended, the costs must be paid.

IN THE CRIMINAL COURT OF BALTIMORE, MARYLAND

PART III

TRANSCRIPT OF SENTENCING—March 24, 1961

(The Court) I appreciate the assistance counsel have given me. This was an extremely well-tried and interesting case.

I have written a short opinion based upon the law as I understand it to be, so I see nothing to be served by reading my opinion. I will have copies for all parties.

The verdict is guilty on the first count as to each defendant; not guilty on the second count as to each defendant.

(Statement by Mr. Watts in behalf of the defendants.)

(The Court) I appreciate that comment, Mr. Watts. I agree with you these people are not law-breaking people; that their action was one of principle rather than any intentional attempt to violate the law. Under the law as it stands they did violate this particular statutory section of our Code.

[fol. 11] As to the disposition: A fine of Ten Dollars as to each defendant, and because of what you just said and the fact they did not intend to deliberately violate the law but were seeking to establish a principle, the court will suspend the fine, but the court directs that the costs be paid by the defendants.

[fol. 12]

IN THE COURT OF APPEALS OF THE STATE OF MARYLAND

No. 91

September Term, 1961

ROBERT MACK BELL, et al.,

v.

STATE OF MARYLAND.

Brune, C.J., Henderson, Prescott, Horney, Marbury, JJ.

OPINION BY HENDERSON, J.—Filed January 9, 1962

[fol. 13] These appeals are from $10.00 fines imposed, but suspended, after convictions in the Criminal Court of Baltimore for trespassing on the privately owned premises of Hooper's Restaurant. The appellants entered the premises in protest against the restaurant owner's policy of not serving negroes and refused to leave when asked to do so. In fact, they occupied seats at various tables and refused to relinquish them unless and until they were served. The manager thereupon summoned the police and swore out warrants for the arrest of the "sit-in" demonstrators. They elected not to be tried by the magistrate and were subsequently indicted and tried.

The appellants contend that the State may not use its judicial process to enforce the racially discriminatory practices of a private owner, once that owner has opened his property to the general public, and that the Maryland Criminal Trespass Statute, although constitutional on its

face, has been unconstitutionally applied. Apparently the appellants would concede that the owner could have physically and forcibly ejected them, but deny that he could constitutionally invoke the orderly process of the law to accomplish that end.

We find it unnecessary to dwell on these contentions at length, because the same arguments were fully considered and rejected by this Court in two recent cases, *Drews* v. [fol. 14] *State*, 224 Md. 186, and *Griffin & Greene* v. *State*, 225 Md. 422. We expressly held in the *Griffin* case, contrary to the arguments now advanced, that demonstrators are not within the exception in the Maryland Trespass Statute, Code (1957), Art. 27, sec. 577, relating to "a *bona fide* claim of right or ownership", and that the statutory references to "entry upon or crossing over", cover the case of remaining upon land after notice to leave.

We have carefully considered the latest Supreme Court case on the subject, *Garner* v. *Louisiana*, —— U.S. ——, 30 L.W. 4070, decided December 11, 1961. There, convictions of "sit-in" demonstrators for disturbing the peace were reversed on the ground that the convictions were devoid of evidentiary support. Chief Justice Warren, for a majority of the court, found it unnecessary to consider contentions based on broader constitutional grounds. In the absence of further light upon the subject, we adhere to the views expressed in the *Griffin* case.

The appellants further contend, however, that the Maryland Statute, as applied, denies to them the freedom of speech guaranteed under the First and Fourteenth Amendments to the United States Constitution. They argue that their action in remaining on the premises amounted, in effect, to a verbal or symbolic protest against the discriminatory practice of the proprietor. They rely heavily upon *Marsh* v. *Alabama*, 326 U.S. 501. In that case a distributor of religious literature on the sidewalk of a "company town" [fol. 15] was prosecuted and convicted of trespass when he declined to leave or desist. The conviction was reversed on First Amendment grounds, despite the finding of the State court that the sidewalk had never been dedicated to public use. Cf. *Tucker* v. *Texas*, 326 U.S. 517, involving a village owned by the United States. But it would appear

that the rule of the *Marsh* case had not been extended to [fol. 16] the interiors of privately owned buildings, even those of a quasi-public character. See *Watchtower Bible & T. Soc.* v. *Metropolitan Life Ins. Co.*, 79 N.E. 2d 433 (N. Y.); cert. den. 335 U. S. 886; rehearing den. 335 U.S. 912; *Hall* v. *Commonwealth*, 49 S.E. 2d 369 (Va.); appeal dism. 335 U. S. 875; and *Breard* v. *Alexandria*, 341 U. S. 622. On principle, we think the right to speak freely and to make public protest does not import a right to invade or remain upon the property of private citizens, so long as private citizens retain the right to choose their guests or customers. We construe the *Marsh* case, *supra*, as going no further than to say that the public has the same rights of discussion on the sidewalks of company towns as it has on the sidewalks of municipalities. That is a far cry from the alleged right to engage in a "sit-in" demonstration.

Judgments Affirmed, With Costs.

[fol. 17].

IN THE COURT OF APPEALS OF THE STATE OF MARYLAND

No. 91—September Term, 1961

Appeal from the Criminal Court of Baltimore.

Filed: May 26, 1961.

January 9, 1961: Judgments affirmed, with costs. Op. Henderson, J.

ROBERT MACK BELL, et al.

v.

STATE OF MARYLAND

MANDATE

Statement of Costs:

In Circuit Court:

Record

Stenographer's Costs $79.00

In Court of Appeals:

Filing Record on Appeal	$ 20.00
Printing Brief for Appellant	164.80
Reply Brief	
Portion of Record Extract—Appellant	
Appearance Fee—Appellant	10.00
Printing Brief for Appellee	91.50
Portion of Record Extract—Appellee	
Appearance Fee—Appellee	10.00

State of Maryland, Set:

I do hereby certify that the foregoing is truly taken from the record and proceedings of the said Court of Appeals.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Appeals, this eighth day of February A. D. 1962.

J. Lloyd Young, Clerk of the Court of Appeals of Maryland.

Costs shown on this Mandate are to be settled between counsel and NOT THROUGH THIS OFFICE

[fol. 18]

IN THE COURT OF APPEALS OF THE STATE OF MARYLAND

CLERK'S CERTIFICATE

State of Maryland: Set:—

I, J. Lloyd Young, Clerk of the Court of Appeals of Maryland, the highest Court of said State with final jurisdiction on appeals from the trial courts therein, do hereby certify that the foregoing are full and true copies of the documents, originals of which are on file in the office of said Clerk, in the appeal of *Robert Mack Bell et al.* v. *State of Maryland*, No. 91—September Term, 1962:

1. Appellants' Appendix, filed in this office on September 25, 1961.
2. Opinion of the Court of Appeals, filed on January 9, 1962.
3. Docket Entries therein of the Court of Appeals, dated February 8, 1962.

In Testimony Whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Appeals of Maryland this fifth day of June, 1962.

(Seal)

J. Lloyd Young, Clerk, Court of Appeals of Maryland.

[fol. 19]

IN THE CRIMINAL COURT OF BALTIMORE, MARYLAND

PART III

INDICTMENT—Filed July 12, 1960

State of Maryland,
City of Baltimore, to wit:

The Jurors of the State of Maryland, for the body of the City of Baltimore do on their oath present that Robert Mack Bell, Lovellen P. Brown, Arimentha D. Bullock, Rosetta Gainey, Annette Green, Robert M. Johnson, Richard McKoy, Aliceteen E. Mangum, John R. Quarles, the elder, Muriel B. Quarles, Lawrence M. Parker and Barbara F. Whittaker, that on the seventeenth day of June, in the year of our Lord nineteen hundred and sixty, at the City aforesaid, unlawfully did enter upon and cross over the land, premises and private property of a certain corporation in this State, to wit, Hooper Food Co., Inc., a corporation, after having been duly notified by Albert Warfel, who was then and there the servant and agent for Hooper Food Co., Inc., a corporation, not to do so; contrary to the form of the Act of Assembly in such case made and provided, and against the peace, government and dignity of the State.

Second Count.

And the Jurors aforesaid, upon their oath aforesaid, do further present that the said Robert Mack Bell, Lovellen P. Brown, Armentha D. Bullock, Rosette Gainey, Annette Green, Robert M. Johnson, Richard McKoy, Aliceteen E. Mangum, John R. Quarles, the elder, Muriel B. Quarles, Lawrence M. Parker, and Barbara F. Whittaker, on the said day, in the said year, at the City aforesaid, unlawfully did enter and trespass on certain property of Hooper Food Co., Inc., a corporation, which said property was then and there posted against trespassers in a conspicuous manner; contrary to the form of the Act of Assembly in such case made and provided, and against the peace, government and dignity of the State.

Saul A. Harris, The State's Attorney for the City of Baltimore.

[fol. 20]
S

2523Y

STATE OF MARYLAND

vs.

ROBERT MACK BELL (c) 17 B, LOVELLEN P. BROWN (c) B 17, ARIMENTHA D. BULLOCK (c) B 17, ROSETTA GAINEY B (c) 19, ANNETTE GREEN B (c) 18, ROBERT M. JOHNSON, B (c) 18, RICHARD MCKOY B (c) 17, ALICETEEN E. MANGUM B (c) 22, JOHN R. QUARLES, SR. B (c) 20, MURIEL B. QUARLES B (c) 21, LAWRENCE M. PARKER B (c) 20 and BARBARA F. WHITTAKER B (c) 18,

Indictment

(TRUE BILL)

(R. B. Watts
As to each (T. R. Dearing
(J. J. Mitchell

16

Nov 10 1960—Not Concluded

(Signature illegible), Foreman.

Filed Jul 12 1960

Byrnes, J.

Witnesses:

Gilbert C. Hooper, Sr.
Lt. Redding CD
Sgt. Sauer "
Sgt. Grempler "
Albert Warfel

Trespassing, etc.

Drawn trespassing
O. K. JAM
O. K.

Copy of Indictment Served
Receipt Filed Nov 10 1960

Bell

A Nov 10 1960 P NG T C

V G¹ NG² S Fined 10.00 & Fine Suspended To Pay Costs

Mar 24 1961

Brown

A Nov 10 1960 P NG T C

V G¹ NG² S Fined 10.00 & Fine Suspended To Pay Costs

Mar 24 1961

Bullock

A Nov 10 1960 — P NG — T C

V G[1] NG[2] — S Fined 10.00 & Fine Suspended To Pay Costs

Mar 24 1961

Gainey

A Nov 10 1960 — P NG — T C

V G[1] NG[2] — S Fined 10.00 & Fine Suspended To Pay Costs

Mar 24 1961

Green

A Nov 10 1960 — P NG — T C

V G[1] NG[2] — S Fined 10.00 & Fine Suspended To Pay Costs

Mar 24 1961

Johnson

A Nov 10 1960 — P NG — T C

V G[1] NG[2] — S Fined 10.00 & Fine Suspended To Pay Costs

Mar 24 1961

McKoy

A Nov 10 1960 P NG T C

Fined 10.00 &
V G[1] NG[2] S Fine Suspended
To Pay Costs

Mar 24 1961

Mangum

A Nov 10 1960 P NG T C

Fined 10.00 &
V G[1] NG[2] S Fine Suspended
To Pay Costs

Mar 24 1961

John Quarles

A Nov 10 1960 P NG T C

Fined 10.00 &
V G[1] NG[2] S Fine Suspended
To Pay Costs

Mar 24 1961

Muriel Quarles

A Nov 10 1960 P NG T C

Fined 10.00 &
V G[1] NG[2] S Fine Suspended
To Pay Costs

Mar 24 1961

Parker

A Nov 10 1960 P NG T C

V G[1] NG[2] S Fined 10.00 & Fine Suspended To Pay Costs

Mar. 24 1961

Whittaker

A Nov 10 1960 P NG T C

V G[1] NG[2] S Fined 10.00 & Fine Suspended To Pay Costs

Mar 24 1961

POSTED TO COSTS RECORD

Date 3/28/61 By E. R. WINSON

Page Number 158

FINES & COSTS

Fine	—
States Attorney	5.00
Clerk	8.75
Sheriff	75.25
Attorney	—
Total	89.00

[fol. 21] [File endorsement omitted]

IN THE CRIMINAL COURT OF BALTIMORE, MARYLAND

PART III

STATE OF MARYLAND

vs.

ROBERT M. BELL, LOVELLEN P. BROWN, ARIMENTHA D. BULLOCK, ROSETTA GAINEY, ANNETTE GREEN, ROBERT M. JOHNSON, RICHARD McKAY, ALICETEEN E. MANGUM, JOHN R. QUARLES, JR., MURIEL B. QUARLES, LAWRENCE M. PARKER, BARBARA F. WHITTAKER

Indictment #2523

Transcript of Proceedings—November 10, 1960

Baltimore, Maryland
November 10, 1960

Before Honorable Joseph R. Byrnes, J.

APPEARANCES:

James W. Murphy, Esq., on behalf of the State.

Robert B. Watts, Esq.
Tucker R. Dearing, Esq.
Juanita J. Mitchell,
On behalf of the Defendants.

[fol. 22] The Clerk: Indictment #2523. Robert M. Bell, Lovellen P. Brown, Arimentha D. Bullock, Rosetta Gainey, Annette Green, Robert M. Johnson, Richard McKay, Aliceteen E. Mangum, John R. Quarles, Jr., Muriel B. Quarles, Lawrence M. Parker and Barbara F. Whittaker. As I understand all three counsel, Mr. Watts, Mr. Dearing and Miss Mitchell are representing all defendants, is that correct?

Mr. Watts: That's right. All are here with one exception, Aliceteen Mangum.

The Clerk: All are charged with trespassing in Indictment 2523. Now as to all defendants, have copies been received?

Mr. Watts: Yes, we have received copies.

The Clerk: Robert Bell, what is your age?

Mr. Bell: 17.

The Clerk: Your address?

Mr. Bell: 2026 E. Hoffman St.

The Clerk: Lovellen Brown, your age?

Miss Brown: 17.

The Clerk: Your address?

Miss Brown: 2019 N. Wolfe St.

[fol. 23] The Clerk: Bullock, what is your age?

Miss Bullock: 17.

The Clerk: Your address?

Miss Bullock: 1211 N. Caroline.

The Clerk: Miss Gainey?

Miss Gainey: 19. 1518 N. Broadway.

The Clerk: Annette Green?

Miss Green: 18. 2019 N. Wolfe St.

The Clerk: Robert M. Johnson?

Mr. Johnson: 18. 1711 N. Castle.

The Clerk: Richard McKoy?

Mr. McKoy: 17. 2519 N. Colvin.

The Clerk: John R. Quarles?

Mr. Quarles: 28. 2409 West Lafayette.

The Clerk: Muriel Quarles?

Miss Quarles: 21. 1530 N. Caroline St.

The Clerk: Lawrence Parker?

Mr. Parker: 20. 2608 Burrell Ave.

The Clerk: And Barbara Whittaker?

Miss Whittaker: 18. 1110 Wilmot Court.

The Clerk: Aliceteen Mangum here now?

[fol. 24] Miss Mangum: Yes, sir.

The Clerk: Your age?

Miss Mangum: 22.

The Clerk: Your address?

Miss Mangum: 1404 Argyle Avenue.

The Clerk: All right. Now, the pleas as to each, Mr. Watts?

Mr. Watts: The pleas are not guilty as to each defendant.

The Clerk: Court or jury trial?

Mr. Watts: Court trial.

Mr. Murphy: I'd like to call Miss Dunlap, please.

ELLA MAE DUNLAP, produced on behalf of the State, having first been duly sworn according to law, was examined and testified as follows:

By the Bailiff:

Q. Your name and address?

A. Ella Mae Dunlap. 902 Exeter Hall.

[fol. 25] The Court: How do you spell your name?

The Witness: D U N L A P.

Direct examination.

By Mr. Murphy:

Q. Miss Dunlap, where are you employed?

A. Hooper's Restaurant, Charles and Fayette.

Q. Were you so employed on June 17th of this year?

A. Yes, I was.

Q. In what capacity are you employed at Hooper's Restaurant?

A. Hostess.

Q. In connection with your employment, what are your duties as hostess, what do you do?

A. Well, I'm at the front. As the guests come in to the lobby I greet the guests. All guests are greeted by me or another hostess who might be at the front at that particular day.

Q. Well, what do you do when you greet the guests?

A. I ask how many is in their party.

Q. I see. Do you seat them?

A. Yes, I do seat them.

[fol. 26] Q. Is anyone seated without you or the other hostess seating them?

A. No, sir.

Q. No one is allowed to seat themselves in other words, is that correct?

A. As a rule, no.

Q. All right. Now on this particular day of June 17th, this was a Friday was it not?

A. Right.

Q. Did something happen at the restaurant there, something unusual?

A. Yes, sir.

Q. About what time was it?

A. Roughly, say about 4:15 or 4:20.

Q. P. M.?

A. P. M.

Q. Now you describe to his Honor, please, just exactly what happened at that time?

A. At that particular day, 4:15 or 4:20, a group of people came in, 15 or 18 at a time. I said "May I help you?" A person said "Yes, I'd like to be seated". I said, "I'm sorry, [fol. 27] but we haven't integrated as yet".

Q. These people were negroes, is that correct?

A. That's right.

Q. And you refused to seat them at that time?

A. I said "We haven't integrated as yet".

Q. Where did this conversation take place? Where were you at that time when the conversation took place?

A. Right at the entrance of the top step in the restaurant.

Q. Where were these people, these people that had come in the group?

A. The group was in the lobby.

Q. All right. To get to the lobby, to where the dining area is, are there any steps?

A. Yes, sir. It's an elevation of about four steps.

Q. Is there a handrail there or two handrails?

A. Yes, sir. There are two handrails, one on each side.

Q. What is the distance between the handrails, approximately?

A. Roughly between four and five feet.

[fol. 28] Q. This is up the steps between the handrails

where the people have to come from the lobby to the dining area, is that right?

A. That's right.

Q. At that time you told them you were not going to seat them, is that correct?

A. I said "We haven't integrated as yet".

Q. You were at the top of the steps?

A. That's right.

Q. They were at the bottom, is that correct?

A. That's correct.

Q. What happened then?

A. They said "Well, you mean you're not going to seat us?" I said, "Well, that's right". They said "Well, aren't you ashamed of yourselves?" I said "Well, no, I'm not. It just so happens I work here. That's Mr. Hooper's orders. It's the preference of the customers". They said, "Well, you mean you're not going to seat us?" I said "Well, that's right, I work here and that's my orders at this particular time".

Q. What happened then?

[fol. 29] A. In the meantime the manager was on his way to the front of the dining room or where I was standing.

Q. What is his name?

A. Mr. Al Worfel.

Q. Go ahead.

A. While I was talking to these people, Mr. Worfel came. He started to talk to them as well. In the meantime while he was talking, we were blocking the front of approximately four feet, four to five feet.

Q. Between the handrails?

A. We were standing there talking to the group. At that particular time the group broke. They broke through the line or through Mr. Worfel and myself a distance of four to five feet and also went to the downstairs as well. We have a Grill which is downstairs.

Q. How did they get past you and Mr. Worfel?

A. Well, we were standing sort of sideways at the time and we were glancing back and answering questions and at the second we just turned, they broke through the line and seated themselves.

Q. Were you pushed?
A. They pushed me.

[fol. 30] Mr. Watts: That's leading. I object to that question.

The Court: Yes. I sustain it.

By Mr. Murphy:

Q. Well you tell us what happened, how did they get past you and Mr. Warfel?

A. Well, as I said we were standing sideways talking with various people which were asking us questions and I was pushed against the rail which is to the left of it.

Q. What happened then?

A. The line broke and I was pushed against the rail and also pushed back. I would roughly say eight to ten feet. That is, not literally pushed, but more or less edging back.

Q. All right.

A. I couldn't hold them back.

Q. What did the people do?

A. They seated themselves in various parts of the dining room between our guests that were dining.

Q. And what happened?

A. At that time they scattered from place to place and then Mr. Warfel called the police.

[fol. 31] Q. All right. Did the police eventually come?

A. Yes, the police did come.

Q. Your witness.

Cross examination.

By Mr. Watts:

Q. Now Miss Dunlap, as a matter of fact, after these students were refused admission, didn't you go over and talk to the manager and ask is that still the policy of the restaurant?

A. The manager was right there.

Q. He was not in front, in this four to five feet area, was he?

A. Yes, sir.

Q. He was blocking the area?

A. We both were standing there when the line broke.

Q. I see. When the group broke through, twelve of them got in and you put your hands up and stopped the rest of them? Isn't that what happened?

A. I did try to stop them but the group wasn't interested in being stopped.

Q. The ones who got in just walked in and sat down? [fol. 32] A. That's right.

Q. And they didn't strike you or actually shove you, did they?

A. Yes, I was shoved.

Q. You were shoved?

A. Yes, I was standing at the front rail and I was shoved.

Q. You described it as saying not literally shoved but you, as going to take their seats they passed by you, is that right?

A. Well, actually, I was standing by the rail. The distance between four to five feet. At the top of this rail which I'm talking about the entrance way, there's a knob on this rail. I was pushed against that. Then I tried to stop them, the group from continuing on and as I said I actually was not pushed from there on but I was pushed when the line started to break. Then it was about four to five feet or maybe eight feet, I don't know.

Q. I see. Now, you refused them admission to this restaurant solely on the basis of their color, is that correct? [fol. 33] A. Yes, sir.

Q. And that you didn't refuse them admission because they were in any way disorderly?

A. Well, I wouldn't say they were mannerly.

Q. Answer my question? Did you refuse them admission because they were disorderly?

A. No.

Q. Did you refuse them admission because they weren't properly dressed?

A. No.

Q. Had they been white people they would have been seated, is that correct?

A. Yes, sir.

Q. That's all.

Mr. Murphy: I'd like to call Mr. Warfel, please.

ALBERT R. WARFEL, produced on behalf of the State, having first been duly sworn according to law, was examined and testified as follows:

By the Bailiff:

[fol. 34] Q. Your name and address?
A. Albert R. Warfel. 830 Argonne Drive.

Direct examination.

By Mr. Murphy:

Q. Where are you employed?
A. I'm no longer associated with Hooper's.
Q. Were you employed by Mr. Hooper on June 17th of this year?
A. Yes, I was.
Q. Where were you employed?
A. Charles and Fayette St.
Q. What capacity?
A. Manager.
Q. I want to direct your attention to that particular date, did something unusual happen there at the restaurant?
A. That particular afternoon, approximately 4:15 in the afternoon, I was called by the hostess in front of the restaurant where a group of people were standing. It happened to be this group plus a few others that are not here now. It has been stated, it had been stated to me, company policy, we're not, we have not integrated the [fol. 35] restaurant. I so notified— First I asked the leader of the group, which I wanted to get it centralized. I spoke to him. I told him the company policy. As I was discussing this—
Q. What was this person's name?
A. I believe it was John Quarles.
Q. Do you know which one he is?
A. The gentleman here in the uniform.
Q. Your name is Quarles? He indicated the defendant Quarles. Go ahead?
A. Well, while in the process of translating the company policy, the group broke. They brushed by us and sat at

various tables in the restaurant. After they were seated they proceeded to hedgehop.

Q. What do you mean by that, sir?

A. Well, what they do, originally they all go in, it might be four of them sit at one table. After they are all seated, they'll look around for empty tables and break and spread out to all the tables in the restaurant.

Q. So that all the empty tables were occupied?

A. No, they weren't.

[fol. 36] Q. As best as possible?

A. They were spread out as evenly as they could. At which time then, I noticed Mr. Hooper. Upon his request I notified the police.

Q. All right. Did you go out and get the police?

A. I stepped outside the restaurant looking for police. I also had the cashier call the radio car.

Q. Did the police come?

A. Yes, sir.

Q. In the presence of the police did you read the trespassing statute to the defendants?

A. Yes, I did.

The Court: I'd like to know specifically what was read?

The Witness: 577.

The Court: I'm asking you.

By Mr. Murphy:

Q. I'd like to show you Section 577 of Article 27 of the Maryland Code of Public General Laws and ask you if this is the section you read to them, sir?

A. I read the whole thing, including this.

Q. But you did read this specific section?

[fol. 37] A. Yes, sir, I did.

Q. This is the section reading "Any person or persons who shall enter upon any, cross over any land" et cetera—is that correct?

A. Yes, sir.

The Court: For the record, Mr. Murphy, I'd like to get again the section and the article.

Mr. Murphy: And that is Article 27, Section 577, is that correct?

A. That's correct.

Q. What happened after you read this section of the Maryland Code to the defendants?

A. Several of the group, they were all notified they would be arrested for trespassing, several of the group left, while others in the group here stayed, at which time we went over and got warrants and had them arrested.

Q. Warrants were obtained at the station house by Mr. Hooper, is that correct?

A. That's correct. Central.

The Court: At that time Mr. Warfel did you inform the group that unless they left they would be arrested?

[fol. 38] The Witness: That's correct.

By Mr. Murphy:

Q. Some of them did actually leave?

A. Yes, they did.

Q. But these people remained?

A. That's correct.

Q. All right. After Mr. Hooper obtained the warrants, did he come back to the restaurant?

A. Well we all come back to the restaurant.

Q. The police were there?

A. That's right.

Q. What happened then?

A. We had the people arrested.

Q. The police took all of their names, et cetera?

A. Yes, sir.

Q. Your witness.

Cross examination.

By Mr. Watts:

Q. Mr. Warfel, is it?

A. Yes.

Q. Your instructions to your hostess, your help there was that they were not to serve negroes, is that correct?

[fol. 39] A. It was company policy that we were not integrated.

Q. So that these people were refused service solely on the basis of their color, is that correct?

A. That's correct.

Q. For no other reason?

A. No, sir.

Q. That's all.

The Court: Mr. Warfel, were any of the group taken to the station house or were they just released by the officer?

A. I believe they were all taken over but then they were released from Central.

The Court: Were they taken to the station house, Central?

A. Yes, sir. I don't remember.

The Court: Do you have other witnesses?

Mr. Murphy: Yes I have the police here too, your Honor.

[fol. 40] G. Carrol Hooper, produced on behalf of the State, having first been duly sworn according to law, was examined and testified as follows:

By the Bailiff:

Q. Your name and address?

A. G. Carroll Hooper. 3501 St. Paul Street.

Direct examination.

By Mr. Murphy:

Q. Mr. Hooper, you are the owner of various restaurants around town, is that correct?

A. That's right.

Q. Do you have a restaurant located Charles and Fayette Streets?

A. Yes, I do.

Q. And that actually is owned by a corporation, is that correct?

A. Yes, sir.

Q. Hooper Food Company Inc.?

A. That's right.

Q. Are you the president?

[fol. 41] A. President.

Q. Are you the lessee of that premises there?

A. That's right.

Q. And you operate your restaurant there, is that correct?

A. Yes, sir.

Q. Or one of your restaurants?

A. That's right.

Q. Did you so operate the restaurant on June 17th of this year at that premises?

A. I did.

Q. I want to direct your attention particularly to that date sir, did something happen at your restaurant?

A. Yes, it did.

Q. About what time was it?

A. About 4:15, 4:30.

Q In the afternoon?

A. Afternoon.

Q. Well, you describe to his Honor what you observed at that time, sir?

A. I was in the rear of the restaurant where we have [fol. 42] a bar and lounge which is a distance of about a hundred feet from the front lobby. My attention was attracted by the commotion up front. When I went up there all this had happened. This group of people here entered the dining room and had seated themselves, had pushed their way through the hostess, by the hostess, and had scattered about in different tables and there were several minors in the group.

Q. Practically all of them were minors?

A. I mean juveniles, under 15, that we didn't prosecute. They were released that day at the police station.

Q. Under 16 years of age?

A. Under 16. We did not prosecute them.

Q. What were they doing when you saw them, sir?

A. Well, they scattered about, one at a table. They spread out like a fan in all sections of the dining room. These young girls that were juveniles and most of the

others had a book in their hand. They took a book out and were reading it at the table. This was about the fourth occasion that we had been visited by these people. On prior [fol. 43] occasions, particularly one that I remember, they came in. I think we were the first people in town that they tried to get in. When I came in they were all scattered. They refused to leave. It was about 4 in the afternoon. I ordered the place closed. We turned off the air conditioning and locked the door and I went around to the tables and told them we were closed and asked them to leave. They would not. There is a gentleman sitting back there named Tony Adano—

Mr. Watts: I object to this. This is another case he is referring to, if your Honor please.

The Witness: Well, I think it's pertinent to the purpose of these people visiting us at this time. What I'm going to say I believe will be pertinent to the case to show the intent and motive that these people were not coming here to eat.

The Court: Was this spoken by the man you have in mind in the presence of these defendants?

The Witness: This man back here; I set at the table with him and two other people and reasoned and talked to him why my policy was not yet one of integration and [fol. 44] told him that I had two hundred employees and half of them were colored. I thought as much of them as I did the white employees. I invited them back in my kitchen if they'd like to go back and talk to them. I wanted to prove to them it wasn't my policy, my personal prejudice, we were not, that I had valuable colored employees and I thought just as much of them. I tried to reason with these leaders, told them that as long as my customers were the deciding who they want to eat with, I'm at the mercy of my customers. I'm trying to do what they want. If they fail to come in, these people are not paying my expenses, and my bills. They didn't want to go back and talk to my colored employees because every one of them are in sympathy with me and that is we're in sympathy with what their objectives are, with what they are trying

to abolish, but we disapprove of their methods of force and pushed their way in.

Now, the leader, I have talked to Mr. Quarles, who is on this case. I have talked to him on that same line.

By Mr. Murphy:

Q. He indicated the defendant Quarles.

A. Mr. Tony Adano, another one back there. All this and three or four cases before this particular case came up. [fol. 45] They knew how I felt and I say that these people coming in and putting books down, under 15 years of age, are not coming to be served. They are trying to legislate by terror, going to force me to either serve or close.

Mr. Dearing: I object.

The Witness: So on this particular occasion—

By Mr. Murphy:

Q. Tell us about that.

A. When I got there, they had spread out to all the tables. They wanted to be seated in the rear, the side, the front, the middle and everywhere, and why. Four people at one table, all left except one and go to another table. Very evident that the purpose was to let my customers know that they are there, and why do they want them to let them know they're there? That I would like to know, when they know and have been told my policy, they are not going to be served.

Q. What happened, sir?

A. I ordered Mr. Warfel to call the police. He called the police. We read the ordinance in the presence of the police. They were asked to leave.

Q. You're referring to Article 27, Section 577?

[fol. 46] A. The one you just read to Mr. Warfel. The Lusby ordinance. Then the police called the wagon and took them down to Central. Of course we had to go.

Q. You went down and got warrants?

A. We got warrants.

Q. And you brought the warrants back?

A. We were even in Judge Kolodney's office. Before we ever issued the warrants we called up. I was reluctant to even have these people arrested and give them one more chance to leave the restaurant.

Q. They refused to leave?

A. Yes, sir. Judge Kolodney called to Mr. Watts in our presence. I didn't want to have them arrested but they refused to leave.

Q. Were they taken down to the station house?

A. They were. They were released on bond.

Q. Well, their names were taken by the police at your place of business; is that correct?

A. That's right.

Q. And then they were told to be at the station house the following morning?

[fol. 47] A. That's right.

Q. At that time they placed the bond at that time?

A. Yes, sir.

Q. But they weren't actually taken in physical custody by the police on this Friday, were they sir?

A. Well, I can't remember. They have been in about six or seven times. In fact one time they came in—

Mr. Watts: I object.

The Witness: And I think this is important too.

The Court: Yes?

Mr. Watts: I object to this, if your Honor please.

The Court: The same defendant, do you know?

The Witness: Yes, the same group.

The Court: The same defendants?

The Witness: Same defendants.

The Court: Overrule the objection. Go ahead.

The Witness: At the Shriner's Convention, at 12:30, with a hundred people waiting for seats and the bar and lounge, it's three deep and three of them come in the rear entrance, minors under 21, into a bar and lounge and we got to call the police to get them out there, blocking the [fol. 48] way, people can't get out. They couldn't have been served a drink because everyone here has testified they're under 21.

Mr. Watts: I'll object to this unless he can specifically

identify who it was. Someone who came in on another occasion shouldn't have any effect.

The Court: That's why I asked him if any of the same defendants here were in the other episode?

The Witness: Yes, sir.

The Court: Can you point out the ones?

The Witness: This man right here and that one next to him.

Mr. Murphy: He is indicating—

The Witness: That's two of them right there.

Mr. Murphy: Robert Johnson and Richard McKoy.

The Witness: They came in the bar during the Shriner's convention and we had a hundred people waiting for seats and blocked the aisle. We had to call the police to get them out. Into a bar and lounge under 21.

Mr. Murphy: Witness with you.

The Court: Mr. Murphy, I have one of two names, [fol. 49] I don't have the second.

Mr. Murphy: Richard McKoy. Robert M. Johnson.

The Court: Is it McKoy or McKay?

Mr. Murphy: K-o-y.

Cross examination.

By Mr. Watts:

Q. Mr. Hooper, you made a lot to do about the age of these people. Do you serve anyone under 16 in your restaurant?

A. What do you mean I made a lot to do about the age.

Q. Answer my question? Do you serve anybody—?

A. Before I can answer I must know what you're referring to.

Q. You made a lot to do about the fact these people were under 16?

A. I'm merely just stating I heard what they said.

Q. You do serve white people under 16?

A. Not in the bar. We serve food in the dining room.

Q. All right. You mean if a white person enters your bar— You serve meals in the bar, do you?

A. Only to people over 21.

[fol. 50] Q. You don't serve meals to a family in the bar?

A. No.

Q. When they came into your bar they were on their way to the restaurant, were they not?

A. Well, I don't know. They got as far as the door. I don't know where they were going to stop.

Q. They have to go through your bar to get in the restaurant. You stopped them at the bar?

A. The front door is a distance of fifteen feet to the dining room door. They were stopped at the dining room door.

Q. In the bar nobody asked you to serve them a drink of whiskey, isn't that correct?

A. They were not given the chance. They couldn't even get to the bar. They were three deep.

Q. Their presence in the bar have nothing to do with—

A. We have a neon sign on the entrance to the bar. That's where they came in.

Q. But you stopped them there, is that correct?

A. That's right.

Q. Now, what I'm trying to get at Mr. Hooper, you [fol. 51] gave the Court the impression these minors were in there to buy whiskey. That's not true?

A. I did not give them that impression. I'm stating the facts. I didn't get that impression.

Q. Now, when Mr. Quarles and you sat down and you told him that you would not serve him and why doesn't he leave—

A. Tony Adano and Quarles too.

Q. —didn't they then tell you they wanted to stay to demonstrate the immorality and the unfairness of your racial discrimination, isn't that correct?

A. Mr. Watts,—

Q. Answer my question?

A. I'm going to answer it.

Q. Did they tell you that?

A. Can I answer it?

Q. I don't want to get in any argument?

A. It's not an argument. I want to answer your question. I go on record as I favor what you people are trying to do and I told Quarles that.

Q. I say didn't they?

[fol. 52] A. But I don't approve of your method in trying to reach it.

Q. Didn't they say even though you won't serve them they were going to stay because they were demonstrating and assembling against your racial policies so that the sympathy of the public might come on their side? Did they explain that to you?

A. Well now, you're putting words there. I couldn't say that he said that. We had a long conversation about this thing. I told Mr. Quarles that I felt personally that it was an insult to human dignity. I sympathize with it and also told them that my customers govern my policy.

Q. Didn't they say they wanted to show your customers that people can sit peaceably and be served?

A. In other words then you're trying to tell me that Mr. Quarles has a better opinion about how I conduct my business than I do.

Q. I'm not arguing with you?

A. That's what you're saying.

Q. I'm trying to get evidence—

The Court: Just a minute. Mr. Hooper, I think it [fol. 53] would be more helpful if you didn't get too emotional. Mr. Watts wants to know what Quarles said to you was the reason these people were in your place? Did Mr. Quarles or anyone give any reason?

The Witness: Well, Mr. Quarles said in the course of our conversation— Your Honor, it's very difficult for me to say verbatim, but—

The Court: What was the substance?

The Witness: The gist of it was this: That they had gained a lot through these peaceful sitins demonstrations, particularly in the South and they felt that, I told them that, Mr. Quarles, that they had come a long way. Five years ago such a thing would be unheard of and I thought if time would take care of what they were trying to do— He said "we're not waiting for time. We're going to force this thing and we're going to accomplish it and it definitely has been proven we have gotten results by forging ahead and trying to exert our rights whether we violate the law or not."

By Mr. Watts:

Q. Didn't Mr. Quarles tell you that this was a peaceful non-violent demonstration?

[fol. 54] A. He didn't have to tell me. It was evident, other than the time he shoved the hostess aside.

Q. It was evident they were peaceful?

A. After they got seated they were peaceful. They read books. They did not want to be served food.

Q. Now, Mr. Hooper—stand up. You remember seeing this gentleman before?

A. Maybe I have. I can't remember.

Q. Mr. Mitchell, stand up?

A. Yes, sir. That's the leader. I have talked to him too.

Q. That's all we'd like to ask.

Sgt. John Sauer, produced on behalf of the State, having first been duly sworn according to law, was examined and testified as follows:

By the Bailiff:

Q. Your name and assignment?

A. Sgt. John Sauer. Central.

[fol. 55] Direct examination.

By Mr. Murphy:

Q. Sgt. Sauer, I want to direct your attention to June 17th of this year, did you receive a call or did someone ask you to come over to Hooper's Restaurant, Fayette and Charles Street here in Baltimore City?

A. Lt. Redding and I were standing on the corner, as a result of the crowd that was there on the corner when Mr. Warfel come out of the restaurant and requested we come in while he read the trespassing ordinance to these people in the restaurant.

Q. Now, did you and Lt. Redding go over to the restaurant then?

A. We did. We went inside.

Q. About what time was that, sergeant?

A. It was about 4:30.

Q. P.M.?

A. Yes, sir.

Q. And you describe to his Honor what occurred, what you observed when you went in the restaurant and what occurred thereafter?

A. When we got into the restaurant there were several [fol. 56] people sitting around at different tables. I think it was about one to a table.

Q. Were these white or colored people?

A. They were colored people.

Q. Did they appear to be older people or younger people?

A. Most of them appeared to be younger.

Q. Go ahead?

A. The general group were young. Mr. Warfel requested we stand there while he read the ordinance to them relative to the trespassing act.

Q. Article 27, Section 577 of the Maryland Code?

A. That's right, sir.

Q. And you were present when Mr. Warfel read that to the defendants?

A. Yes, I was.

Q. Go ahead?

A. After reading it to the people in the upper part of the restaurant, he requested then that they leave. They refused. So he asked his clerks and the waitresses to go about the group and get their names and addresses and [fol. 57] have them identify themselves. All of those there who did identify themselves stayed. Some refused to identify themselves at that time. After reading the ordinance upstairs we went down to the basement restaurant which is more or less of a cafeteria arrangement and the same thing followed down there. He read the ordinance down there and of the parties left. Some of them stayed and identified themselves. After this was all through the group were requested to leave again and refused. We advised them Mr. Hooper he would have to get warrants if he wished to have the people arrested. He said that he would, and he left to go the Central District. I went

down to pick up the warrants. When I got down there it seemed that Magistrate Kolodney had had some conversation with Mr. Quarles or one of the group on the telephone at the restaurant and arrangements were made whereby they could come down on Monday to a trial voluntarily.

Q. All right. Well, you then secured the warrants from the magistrate?

A. The warrants were secured but they weren't served at that time.

[fol. 58] Q. And they were not placed in custody at that time?

A. No, sir.

Q. Did you go back to the restaurant?

A. Yes, I went back. The time I went back the people had left.

Q. They had left at that time?

A. Yes, sir.

Q. All right. Now what were the names of the people that identified themselves at that time? The ones that were so requested to do so by the employees of Mr. Hooper?

Well, all right. Counsel, your Honor, has stipulated between the State and the traversers, Robert M. Bell, Lovellen P. Brown, Arimentha D. Bullock, Rosetta Gainey, Annette Green, Robert M. Johnson, Richard McKoy, Aliceteen E. Mangum, John R. Quarles, Muriel B. Quarles, Lawrence M. Parker and Barbara F. Whittaker, that they are the same individuals that were in Hooper's Restaurant on June 17th of this year. The same persons that refused to leave at that time after being refused service because of their race and that they are the people that gave their names to the employees of Hooper's Restaurant at that [fol. 59] time and that they are the same defendants on trial here today. Is that so stipulated counsel?

Mr. Watts: That is so stipulated.

Mr. Murphy: No question about the identification of the various individuals?

Mr. Watts: None whatever.

Mr. Murphy: Your witness.

Cross examination.

By Mr. Watts:

Q. Sergeant, there was no disorder while you were there?

A. No. Everybody was peaceful.

Q. Sergeant, you are a member of the City Police Department?

A. That's correct.

Q. And who pays you, the State of Maryland or the City of Baltimore?

A. That's a difficult question.

Q. But you are, you were acting as a police officer?

A. Yes, sir.

Q. Paid by either the city or the State, is that correct?

[fol. 60] A. Yes, sir.

Q. That's all.

The Court: Sergeant, do you know the overall time the group might have been in Hooper's, from the time they went in until the time they left?

The Witness: I'd say approximately an hour to an hour and a half, your Honor.

The Court: Thank you.

STATE RESTS

Mr. Murphy: Thank you sergeant. The State will rest if your Honor please.

DEFENDANTS' MOTION FOR A DIRECTED VERDICT

Mr. Watts: If your Honor please, at this time at the end of the State's case, under the rules, we'd like to submit for your Honor's consideration a motion for a directed verdict. If your Honor will read it hurriedly? Most the parts follow the same pattern.

The Court: I guess I should reserve a ruling on the motion at this time.

Mr. Watts: I'd like a ruling on the technical procedural matters, if your Honor please? Are you going to withhold your ruling on a directed verdict? Can we put on [fol. 61] some evidence and you rule on it later?

The Court: Yes.

JOHN R. QUARLES, SR., produced on his own behalf, having first been duly sworn according to law, was examined and testified as follows:

By the Bailiff:

Q. Your name and address?
A. John R. Quarles, Sr. 409 W. Lafayette Avenue.

Direct examination.

By Mr. Watts:

Q. Mr. Quarles, are you one of the defendants?
A. Yes, sir.
Q. And you are a student at Morgan College, is that correct?
A. Yes, sir.
Q. What year are you in now?
A. My second year at Morgan.
Q. Are you a member of a civic interest group that [fol. 62] staged this; how do you classify this, demonstration, is that right?
A. Yes, sir.
Q. Now tell his Honor, I think Mr. Hooper referred to the fact that he talked to you when you first went in the restaurant, is that correct?
A. Well first, after entering the restaurant I was greeted first by the hostess and she asked me, as she said, "Can I help you please?" I asked her, I said "Well, we would like a table for all of us". She said "I'm sorry but we haven't integrated as yet".
Q. At that time were you prepared to pay for meals if all of you had been served?
A. Well, we have a treasury. At that time I had some fifty-five or sixty dollars in my pocket.
Q. Go ahead?
A. And after she stated she would not serve us because she was an employee there and she could not go over the orders of Mr. Hooper I asked her, well, why was it that Mr. Hooper had a segregated restaurant, didn't he think that we were of a caliber, of the caliber of human beings

[fol. 63] to be served as humans. She stated she had nothing to do with this, she was only a person who was employed there. Later, about two or three minutes later the manager walked up to me and he proceeded to explain to me Mr. Hooper's policy of segregation. At the time that he was explaining this to me, we all had our backs turned to the group of students who were seeking service at the restaurant, and they were in a line waiting to be seated and at the time we were talking and had our backs to them, some of the students proceeded to come up the flight of steps, two or three steps and seat themselves at tables. Well, after the manager and the hostess became aware of this they ran over, which was only about two or three steps and throwed up their arms to block the students that were coming in. The students who were blocked, they had been instructed prior to entering the restaurant if anything came about where they were blocked or obstructed by any of the employees of the restaurant they were to stop, stand still and not force their way into the restaurant or force their way to be seated. This procedure they carried out. The students who were not able to be seated in the upper part of the restaurant went [fol. 64] downstairs to the grill and after the students were seated upstairs, about 10 or 12 students were seated upstairs and about the same number downstairs, Mr. Hooper came in and he proceeded to talk to me about this. He was telling me how he had negro employees in his restaurant and he had negroes in his business, for the duration of his business ever since he had been in business. I was asking him, well, why wasn't it these negroes he thought so much of weren't capable of sitting at his tables to eat? He said, well, it's because my customers don't want to eat with negroes. I then asked him why was it or how was it that he knew that his customers did not want to eat with negroes? He couldn't answer that question and he asked me why we were sitting there. I explained to him we were there to be served and also to let his customers become aware of the problem of segregation in Baltimore City and then he proceeded to say, give me his views on how he felt about it. He didn't believe this was the way to do it and so forth and so on. I ex-

plained to him then when he said this, we were not there to interrupt his business and we were not there to distort [fol, 65] or destroy his business. We were simply there seeking service as humans and also as citizens of the United States of America.

Q. Now you describe this as a demonstration. Were you there as pickets in the process of assembling in protest against these policies as such?

A. Yes, we were there and there were also some pickets who were outside picketing with placards, stating Mr. Hooper's policy so that the persons passing by or customers coming in would realize that Mr. Hooper had a segregated policy in his restaurant?

Q. Those who went in were part of those who were outside?

A. That's right.

Q. No further questions.

Cross examination.

By Mr. Murphy:

Q. Well your actual purpose then was to demonstrate rather than to eat, isn't that correct?

A. The actual purpose first of all was to eat. After being refused service, that was when the demonstration came about.

[fol. 66] Q. Well is it normal for you when you go out to eat some place to get together a group of fifty persons? Is that the number that you have at a dinner party when you go out usually?

A. Well I have known this group to eat at dinner parties as many as 33 students.

Q. Well I mean actually, you went over there and the group went over there to demonstrate, isn't that correct?

A. No. First of all we went there to eat.

Q. When asked by your counsel you said that it was a demonstration at this restaurant, isn't that correct?

A. Yes, that's what it turned out to be, a demonstration.

Q. You characterized it as a demonstration, right? Is that correct?

A. I don't quite get your question.

Q. You characterized it to your counsel as a demonstration, that you were demonstrating at the restaurant, isn't that right?

A. We were demonstrating after being refused.

[fol. 67] Q. You went there as pickets?

A. We went there with students waiting, seeking service.

Q. Did they have picket signs?

A. The picket signs were not brought out until after we were refused service. They were sent for.

Q. Well, you had already had these signs prepared did you not to use to picket?

A. Those signs were prepared for the Hecht Company Rooftop Restaurant.

Q. Now, where did your group meet before you went over there?

A. Where did the group meet?

Q. Yes?

A. The group met at Dunbar High School, around 3:30 p.m.

Q. And did you organize the group at that time?

A. No, I did not.

Q. And tell them where you were going to go?

A. I didn't organize the group. Mr. Bell stated there were some students, his Student Council, he was President [fol. 68] of the Student Council at Dunbar High School, and I stated to him that some of the students from Morgan were going downtown to seek service from a restaurant. I did not give him a specific restaurant. He said he had students in his student council, members of his student council who wanted to go along.

Q. To swell your numbers down at the restaurant, isn't that correct?

A. I don't quite follow your question.

Q. It's very simple. You were getting additional people from the high school so that you would have more people in your group when you went downtown?

A. No. This all came about at a conference where Mr. Bell was present. He said he'd like his students to attend.

Q. In order to add to your number when you went downtown?

A. It did make the number larger.

Q. That's what I mean. Isn't that why you wanted them to go?

A. I wanted them to go to seek service.

Q. Do you know if any of the young girls had money [fol. 69] to pay for the meals in the restaurant?

A. Yes, sir.

Q. They all—

A. They all had their own individual money. I asked them prior to leaving from the high school.

Q. You only know what someone told you, right? You don't know if they had any money or not of your own knowledge?

A. That's true. I only go along with what they said. I don't think they'd have a reason to tell an untruth.

Q. When you went there, did you expect to get a separate table for each person that went in the restaurant? Did you?

A. Well I went there and I seated myself at a table. Mr. Parker joined me at my table and it was up to each student whom they decided they want to sit at a table with.

Q. I see. They were going from table to table, were they not?

A. No, they were not. Once they seated themselves they remained at the table they were seated in.

Q. Well, didn't they try to occupy as many tables as [fol. 70] they could?

A. No.

Q. Weren't there plenty of tables where only one person was sitting?

A. There were plenty of tables. If I'm not mistaken there were 12 to 14 empty tables in the restaurant.

Q. You say this was not calculated to interrupt Mr. Hooper's business?

A. No, it was not.

Q. By taking seats at separate tables it was not calculated to interrupt his business?

A. No it was not calculated to interrupt his business.

Q. Why did some of the students go downstairs? Didn't you say they went downstairs because they couldn't be seated upstairs?

A. After they were blocked forcibly by the manager and hostess, they proceeded downstairs to seek service.

Q. Well, wasn't it the purpose in going there was to occupy as many tables as you could? Isn't that correct?

A. No. If that were the purpose, if you, if that was the purpose in mind and having an idea that he had some 30 [fol. 71] to 35 tables, it wouldn't make any sense at all with that in mind to go in with 12 to 24 students.

Q. Well you did occupy as many tables as you all could, didn't you?

A. No. As I said each student seated him or herself with the persons they decided to go to eat with. As I said I was joined by Mr. Parker.

Q. And after you were seated did you give your order to anybody and tell anybody what you wanted to eat?

A. After I was seated there was no more discussion until Mr. Hooper came up and seated himself beside me. Then his son came after he did, about five minutes after he sat down at the table with me and we had a discussion on the same thing.

Q. Well, did you ask for a menu when you got seated?

A. I asked for a menu when I walked in.

Q. You say you asked to be seated, right? But after you were seated did you ask for a menu or a waitress to come to you?

A. The waitress came over and informed me she could not serve me.

[fol. 72] Q. Do you know if any of these other people in your group asked for a menu?

A. No, I don't know if any of the other group—

Q. Really you didn't go in there to get served at all?

Mr. Watts: I'll object to this, if your Honor please. The reason, if your Honor please, the State's case indicates Mr. Hooper advised these students he was not going to serve, which makes it a useless gesture to order. That is his case he's trying to make a lot out of. Mr. Hooper said he wasn't going to serve him.

The Court: I think the last question is in order, although I think it's been answered before.

By Mr. Murphy:

Q. All right. Let me ask you this. You were asked to leave, were you not?

A. Yes, sir.

Q. All of you?

A. Yes, sir.

Q. And Mr. Warfel, the manager, read the statute to you on trespassing?

A. He did.

[fol. 73] Q. And as a matter of fact some of your group did leave?

A. Yes, they did.

Q. But you and these other young people that were with you refused to leave, is that correct?

A. We remained still seeking service. We were in hopes that Mr. Hooper would change his policy and serve us.

Q. You refused to leave when you were asked to leave, is that right?

A. Yes, sir. I stated why I refused to leave.

Q. Mr. Hooper told you or one of the employees told you if you did not leave that they would try to have the police place you under arrest?

A. That's right, they did.

Q. And you and these others still refused to leave, right?

A. Still sat there seeking service.

Q. You also have referred to this, these happenings at Mr. Hooper's restaurant as an assembly, is that correct?

A. No, I don't recall.

Q. An assembly of students? I believe your counsel [fol. 74] asked you if you had pickets there, whether you were assembling there and your answer was yes. You were trying to assert your right to assemble under the constitution, is that right, your free right to assemble?

A. That's right.

Q. Well, you were trying to use Mr. Hooper's restaurant to assemble on private property to assemble your group, is that it?

A. Well isn't it true they also have—

Q. I'm not here to answer the questions. You're here to answer the questions. My question to you is this; you

were using Mr. Hooper's restaurant to assert your right to free assembly? Is that what you're telling the Court?

A. That's right.

Q. On private property?

A. That I don't know about.

Q. All right. I have no further questions.

Redirect examination.

By Mr. Watts:

Q. Now Mr. Quarles, you remained even though you knew you were going to be arrested?

[fol. 75] A. Yes, sir.

Q. Is that part of your technique in these demonstrations?

A. Yes, sir.

Q. Why would you be willing to be arrested?

A. Because I think arrest is a small price to pay for your freedom as a human being.

Mr. Murphy: Well, I'll have to move that that be stricken out, your Honor?

The Court: No, I'll permit it.

By Mr. Watts:

Q. Now you have been in other restaurants before is that correct?

A. That's right.

Q. And you sat there like you did in Mr. Hooper's restaurant?

A. That's right.

Q. Did the business continue as usual?

Mr. Murphy: Now, I'm going to object to that.

Mr. Watts: Well, he raised a question about interrupting Mr. Hooper's business. He said he went there not to interrupt. I want to show he's been demonstrating and [fol. 76] hasn't interrupted—

The Court: That would go to the policy.

Mr. Watts: He made a lot to do, stating the fact this was intended to interrupt Mr. Hooper's business. I'm try-

ing to show this has been done on many occasions when business was not interrupted so that by following through it indicates this was not the intention of these people.

Mr. Murphy: I still object to it.

The Court: I'm not sure it's admissible, Mr. Watts, but I'll let him answer it.

By Mr. Watts:

Q. Have you been on other demonstrations and sat like this and business continued?

A. Yes, sir.

Q. People sat and ate and were served, is that correct? You have also been in restaurants as you did on this particular occasion and been served?

A. Yes, sir.

Q. You were informed then that the policy had been changed?

A. That's right, sir.

Q. Did you have this in mind when you went to Mr. [fol. 77] Hooper's?

A. Yes, sir. A number of places we went to seeking service, even maybe prior to entering, the restaurant was segregated but after entering the manager has changed his policy and served us right then and there.

Q. Are you a member of the R.O.T.C. at Morgan State College?

A. Yes, I am.

Q. After you graduate, what are your plans?

Mr. Murphy: Well, I'll have to object.

The Court: Yes. I sustain that.

Mr. Watts: That's all.

Q. Mr. Quarles, you knew you were under arrest, is that right, by the police department?

A. Yes, sir.

Q. And you appeared on Monday voluntarily, in the station house?

A. Voluntarily.

Q. To submit to an arrest by the State, is that correct?

A. That's right.

[fol. 78] Q. All right, that's all.

ROBERT JOHNSON, produced on his own behalf, having first been duly sworn according to law, was examined and testified as follows:

By the Bailiff:

Q. Your full name and address?
A. Robert Johnson. 1711 N. Castle St.

Direct examination.

By Mr. Watts:

Q. Are you a student?
A. I'm a student at Morgan State College.
Q. What year are you in?
A. Freshman.
Q. You admit that you were there on the date alleged in the indictment?
A. I was there.
Q. Have you ever been in any Hooper's any other occasion?
A. No, I haven't.

[fol. 79] Cross examination.

By Mr. Murphy:

Q. When you went to Mr. Hooper's restaurant on this day, how much money did you have in your pocket?
A. I had nineteen dollars in my pocket.
Q. When had you eaten lunch that day?
A. I hadn't eaten lunch.
Q. You didn't eat lunch? You didn't go over to Mr. Hooper's to eat, did you?
A. Yes, I did.
Q. You went over as part of this demonstration actually?
A. I went there seeking service as Mr. Quarles stated.
Q. Your primary purpose was to demonstrate?
A. No. Only if I had been refused service was I to demonstrate.
Q. You anticipated you were going to be refused service

because the pickets signs had already been prepared, hadn't they?

A. No. I hadn't anticipated any such thing.

Q. I see. At the table you sat at, who sat with you or [fol. 80] did you sit by yourself?

A. I sat downstairs in the Grill and there were several others at the counter which I was seated.

Q. All right. No further questions.

Redirect examination.

By Mr. Watts:

Q. In other words, you never went through that little opening there where the hostess was standing?

A. No.

Q. How many of you who are defendants in this case went downstairs and did not go through that place?

A. About 12 of us.

Q. Who are defendants here of this group?

A. All of them.

Q. Were downstairs with you?

A. No, not all of them.

Q. Approximately how many?

A. About six.

Q. That's all.

[fol. 81] Richard McKoy, produced on his own behalf, having first been duly sworn according to law, was examined and testified as follows:

By the Bailiff:

Q. Your full name and address?

A. Richard McKoy. 159 N. Colvin St.

Direct examination.

By Mr. Watts:

Q. Mr. McKoy, just one question I'd like to ask you too. Mr. Hooper pointed out you as having been to his restaurant

on an occasion other than alleged in the indictment. Have you been to Mr. Hooper's restaurant on any other occasion?

A. No, I haven't.

Q. Are you a student?

A. Yes, sir.

Q. Where are you a student?

A. Dunbar High School.

Q. What year are you in?

A. I'm a senior.

[fol. 82] Cross examination.

By Mr. Murphy:

Q. When did you first become associated with these demonstrations in restaurants? When did you first get interested in that?

A. Well, the first time I had heard about dining at Hooper's was, at least dining at a restaurant was when Robert Bell said that we were, we would, he would, well, said that there were some students went into Hooper's to seek service. Well, I agreed that I'd like to go because, well, I hadn't eaten lunch for a while. Since we were going to eat I said I'd go too.

Q. So you thought you'd go down and get a little lunch down at Hooper's?

A. That's right, a little lunch.

Q. But you thought you would go down with this big group, is that right?

A. Since they were all friends of mine.

Q. I see.

A. Yes, sir, they—

Q. When did you first know,— My question merely was this. Maybe I didn't make it quite clear to you. Have you [fol. 83] ever previously demonstrated in any other restaurants?

A. No, I hadn't.

Q. As a matter of fact wasn't there or isn't there some sort of instruction that they give you before you go down to the restaurant as to how to conduct yourself?

A. Instructions? I don't understand.

Q. Well, don't Mr. Quarles or doesn't Mr. Quarles or whoever is in charge of the group tell you to act peacefully when you go in a restaurant?

A. Well, I think the only thing stated is that he wants to make sure that each person is dressed properly. While, you know—

Q. I see. Before you ever go down to lunch at Hooper's, Mr. Quarles or whoever is in charge of the group asked you to be dressed properly, right?

A. Yes, sir.

Q. To conduct yourself peacefully in the place, is that right?

A. He didn't say anything about conducting myself.

Q. Not you in particular. I mean the group in general when he is addressing the group, doesn't he say that?

[fol. 84] A. Well, as I remember, well, it was quite a while ago. He said that on entering, on entering the restaurant we weren't to force our way through anyone.

Q. I see. Well, I mean he does give you, like a football coach would do before the game, he gives you instruction on how to operate when you go down there, right?

A. Not exactly operate. He gives us—

Q. How to conduct yourself?

A. The rules of etiquette.

Q. The rules of etiquette? I see. Does he give you money to pay for the meals?

A. No, he doesn't.

Q. Did you have any yourself?

A. Yes, I did.

Q. I'm not going to ask you how much. Well then, before you ever do go down to the restaurant they tell you, they give you the guide posts or the rules on what to do when you get there?

A. What is this, a sheet or something?

Q. I don't mean a sheet. They do instruct you, Mr. Quarles or whoever is in charge of the group, get the group [fol. 85] together and gives them a pep talk and tells them what to do?

A. I previously stated.

Q. Are you not instructed to sit at many tables or—

A. No.

Q. You occupied a table by yourself?

A. Yes, I did. Anyone was invited to come and sit with me if they like.

Q. If you were going to lunch and you wanted to go with this big group of 25 or more people, why did you sit at a table by yourself? Had somebody done something to offend you that you had to leave the group?

A. No. No one had done anything to offend me. I just sat at the first table empty that I saw.

Q. You sat at a table by yourself?

A. Yes, sir.

Q. Nobody else sat with you even though—

A. Unconsciously I sat at a table.

Q. Even though you had all been assembled to go, before you went down, you didn't sit with anybody, is that correct?

[fol. 86] A. No, I didn't.

Q. And did you attempt to place an order?

A. Well, I had thought that when you sit in a restaurant or at least when you enter a restaurant and have a seat, someone would come to the table and ask you if—give you a menu and ask you what you would like.

Q. Did you ask for a menu? Did you ask for service? Did you place a specific order for any food?

A. Well, thinking as I did, I didn't think it was necessary for me to call anyone's attention to the fact that I wanted to be served.

Q. Well, now, Mr., I think it was Mr. Warfel did read this Maryland Statute on trespassing, is that correct?

A. Yes, he did.

Q. And didn't he tell you and the other people in the restaurant that if you did not leave peacefully, after he had read the statute, that you were going to be placed under arrest?

A. Yes, sir.

Q. And you still refused to leave at that time, is that correct?

[fol. 87] A. Yes, [redacted] I refused because, well, I think my reason is the same as Mr. Quarles.

Q. Well in any event you refused?
A. Yes, I refused.

Redirect examination.

By Mr. Watts:

Q. While you were there did they serve any white people?
A. Yes, sir. There was one man sitting in the restaurant.
Q. Were any ladies in the downstairs where you were?
A. I was upstairs.
Q. Well, he was served is that correct?
A. Yes, he was.
Q. All right.

PHILLIP H. SAVAGE, produced on behalf of the defendants, having first been duly sworn according to law, was examined and testified as follows:

[fol. 88] By the Bailiff:

Q. Your full name and address?
A. Phillip H. Savage. 3226 Carlisle Avenue.

Direct examination.

By Mr. Watts:

Q. Mr. Savage, are you still a member of a civic interest group?
A. Yes, sir.
Q. And Mr. Hooper who previously testified in this case made mention of the fact at the time that the Shriners were there, a large group of teenagers or subteen-agers, people under 16, entered his restaurant. Now first of all, were you there on that occasion?
A. Yes, sir.
Q. When the Shriners were there?
A. Yes, sir.
Q. Tell his Honor what happened on that occasion?

A. We had just come from the Honorable Mayor Grady's office seeking additional mobile registration units at Cherry Hill and Lafayette market. After leaving Mayor Grady's office, we went to Mr. D'Alesandro's office to discuss this [fol. 89] matter with him further. When we left Mr. D'Alesandro's office I think there were 12 of us altogether.

Q. Just a moment. For the record, Mr. D'Alesandro you're referring to—

A. Supervisor of Elections. We proceeded up Fayette Street and we decided we would go in Hooper's and eat. Since there were a great number of us, we divided. One group went in the side door, the other group went in the front door.

Q. How many of you were there?

A. I think there were 12 altogether. I think, I'm not sure of the exact number. When we entered through the revolving doors, three or four of us were able to actually get into the premises of the restaurant at that time, because the gentleman, I don't recall who he was, proceeded to hold the door, blocking a number of us from entering. In fact he tried to push the door back causing one girl's arm to be caught in to the door but after realizing this he did release it. The three or four who were in, were being pushed around and trying to be removed from the restaurant, and the gentleman who was standing at the door was [fol. 90] telling the young lady to try and get a police officer. Well, finally he went out the revolving door, enabling the rest of the group to enter while they went for the police officer who was at the corner there directing the traffic. This officer proceeded to push his way through the door and we were then entered or seated on a couch that—there were three of us seated and three standing. This officer then told us with an abusive manner—

Mr. Murphy: I'll object to the characterization. He can tell us what it is?

The Witness: The officer then said to us that we had to leave.

By Mr. Watts:

Q. What I'm trying to get at, what was the age group of the people?

A. Well, most of us were over 21.

Q. Was there anybody under 16?

A. Oh no, definitely not.

Q. Do you remember who the youngest one was?

A. I really don't know who is the youngest because I don't know their ages.

Q. There wasn't anybody under 16?

[fol. 91] A. I don't think there were anybody under 16 as I know of.

Q. Who all left at that time?

A. What happened was that this officer finally asked the lady to read the ordinance. After reading the ordinance we did leave. The first group. I'd like to say this Mr. Watts, because I think it's important. When we got on the outside, we were out and then the police officers came, seemingly because there was a riot or something. When the other group was read out we left.

Q. All right.

Cross examination.

By Mr. Murphy:

Q. Well then, the altercation was such inside of the restaurant that a number of police came, as you have said, as if there were a riot in the place, is that correct?

A. It seemed that way because of a number of officers.

Q. Don't you think your conduct and the conduct of your associates at the time amounted to a breach of the peace?

[fol. 92] A. It did not.

Q. Well, you were forcing your way physically into this restaurant after the owners had told you that they didn't want you in there?

A. We never forced our way in there. There were three of us who got in. The others were forcibly prevented from coming in.

Q. Well, you were all trying to push your way in, weren't you?

A. No, we were not. At no time. When the door was held, we stopped.

Q. Well, you were describing somebody being caught in the door and everything else, weren't you?

A. Yes, but this was only that they were trying to enter the restaurant at the time.

Q. And the owners or their agents were trying through physical force to keep you from entering, right?

A. Only that— What I mean by physical force that he held the door preventing it from revolving.

Q. The people that were with you, although you had been told you could not enter, and it was obvious to you [fol. 93] that physical force was going to be used by the owner and his agents to keep you from entering, you still attempted to enter and did as a matter of fact enter, isn't that correct?

A. We only entered after the door was moved by the police officer allowing us to get in.

Q. And you don't feel that this contributed, your conduct contributed to a breach of the peace, sir?

A. In no way.

Q. I have no further questions.

Mr. Watts: Of course we'd like to impose an objection to this manner of cross examination on the ground that Mr. Savage isn't on trial and this was on another occasion and not on the 17th. Let the record indicate that.

The Court: Very well.

Mr. Watts: That's extraneous cross-examination.

Mr. Murphy: I didn't put him on. Counsel put him on. I just cross-examined him exactly about the same things that he asked him about in direct examination.

[fol. 94] Redirect examination.

By Mr. Watts:

Q. You had no reason— You didn't call the police?

A. No, we didn't.

Q. And actually any conflict that was, was a breach of the peace is when the police came—

Mr. Murphy: I object to that.

The Court: I didn't hear—

Mr. Watts: I said the only breach of the peace if any, was when the police came?

A. When the police came.

Q. At that time—

A. This caused more excitement than our presence.

Q. You had left?

A. Yes, we had left.

Q. All right. That's our case, your Honor.

The Court: I think a reference was made by this witness and others to the reading of the ordinance? It's agreed the ordinance was really a statute?

Mr. Murphy: Yes, sir.

Mr. Watts: That's our case.

Mr. Murphy: The State has no rebuttal.

[fol. 95]

RENEWAL OF DEFENDANTS' MOTION FOR A DIRECTED VERDICT

Mr. Watts: Of course we move again for our motion for a directed verdict.

The Court: I'll reserve my ruling. I think you would like to have an opportunity to present a brief?

Mr. Watts: I'd like to be heard briefly now. It might be we could submit our brief at a later date and argue it at a later date.

The Court: I think it might be better.

(Conclusion of the Testimony)

[fol. 96] [File endorsement omitted]

IN THE CRIMINAL COURT OF BALTIMORE, MARYLAND

PART III

Ind. No. 2523Y

STATE OF MARYLAND

vs.

ROBERT MACK BELL, LOVELLEN P. BROWN, ARIMENTHA D. BULLOCK, ROSETTA GAINEY, ANNETTE GREEN, ROBERT M. JOHNSON and RICHARD McKOY, ALICETEEN E. MANGUM, JOHN R. QUARLES, SR., MURIEL B. QUARLES, LAWRENCE M. PARKER and BARBARA F. WHITTAKER

APPEAL—Filed April 12, 1961

Mr. Clerk:

Please enter an appeal of the conviction of the Defendants, in the above-entitled case to the Court of Appeals of Maryland.

Robert B. Watts, 1520 E. Monument Street, Baltimore 5, Maryland;

Juanita J. Mitchell, 1239 Druid Hill Avenue, Baltimore 17, Maryland;

Tucker R. Dearing, 627 N. Aisquith Street, Baltimore 2, Maryland, Attorneys for Defendants.

[fol. 97] Clerk's Certificate to foregoing transcript (omitted in printing).

[fol. 98]

SUPREME COURT OF THE UNITED STATES

[Title omitted]

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI—April 5, 1962

Upon Consideration of the application of counsel for petitioner(s),

It Is Ordered that the time for filing petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including June 8, 1962.

Hugo L. Black, Associate Justice of the Supreme Court of the United States.

Dated this 5th day of April, 1962.

[fol. 99]

SUPREME COURT OF THE UNITED STATES

No. 167—October Term, 1962

ROBERT MACK BELL, et al., Petitioners,

vs.

MARYLAND.

ORDER ALLOWING CERTIORARI—June 10, 1963

The petition herein for a writ of certiorari to the Court of Appeals of the State of Maryland is granted, and the case is placed on the summary calendar.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.